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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

IN RE:)	Case No: 17-23011-C-13C
)	DCN: DPC-1
)	
MATTHEW VICKERS,)	TRUSTEE'S OBJECTION TO
ARIANA VICKERS,)	CONFIRMATION
)	
)	DATE: JULY 11, 2017
)	TIME: 2:00 P.M.
)	JUDGE: KLEIN
<u>Debtor(s)</u>)	COURTROOM: 33

DAVID P. CUSICK, TRUSTEE, objects to confirmation of the Debtor(s) plan and does not recommend its confirmation.

The Trustee objects to confirmation as:

1. **FAILED TO PROVIDE DOCUMENTS** The Trustee is unable to fully assess the feasibility of the plan; 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). On their Voluntary Petition, debtors identify their DBA: Rocklin Coin Shop. On Statement of Financial Affairs #27, Debtors

1 report they own and operate a business-Rocklin Coin Shop. Searching the internet, the Trustee
2 determined the Rocklin Coin Shop is located at 4870 Granite Dr, Rocklin, CA with the website
3 www.rocklincoinshop.net.

4 In connection with the business, the trustee requested copies of certain documents
5 including, but not limited to, a completed business questionnaire, 2 years of tax returns, profit
6 and loss statements, bank account statements, proof of license and insurance or written statement
7 of no such documentation exists. These documents were requested by the Trustee on May 10,
8 2017. Debtor has failed to provide the requested documents to the Trustee. On May 25, 2017,
9 the Trustee received bank statements for Tri Counties Bank for November, 2016 to April, 2017
10 and 2015 Federal and State Tax Returns.

11 The Trustee has not received and request the Debtors provide:

- 12 • Business Questionnaire
- 13 • Monthly Profit & Loss statements for November, 2016 to April, 2017.
- 14 • Tri Counties Bank #2212- Cancelled checks November, 2016 to April, 2017
- 15 • 2014 Tax Return and 2016 Tax Returns (when filed)
- 16 • Proof of business license
- 17 • Proof of liability, workers comp and vehicle insurance
- 18 • Seller's Permit
- 19 • State Board of Equalization Return 2015 and 2016
- 20 • Asset List
- 21 • Inventory List

22 This is required **7 days before** the date set for the first meeting, 11 U.S.C. §
23 521(e)(2)(A)(i)

24 **2. FAILURE TO FILE TAX RETURNS** On May 12, 2017, the IRS filed Claim #4,
25 which indicated that Debtors have not filed returns during the 4-year period preceding the filing
26 of the Petition. Specifically, 2016, 2015 and 2014. See 11 U.S.C. §§ 1308 & 1325(a)(9).

27 **3. PLAN EXCEEDS 60 MONTHS** According to the Trustee's calculations the Plan
28 will complete in 240 months as opposed to 60 months as proposed. This exceeds the maximum

1 amount of time allowed under 11 U.S.C. 1322(d). The Internal Revenue Service (IRS) filed
2 Claim #4, which includes \$180,265.24 in priority tax, and the plan proposes to pay the IRS
3 \$10,430.00. The claim filed by The Franchise Tax Board filed Claim #6, which includes
4 \$4,984.95 in priority tax but Debtors plan propose to pay \$463.00. The two tax claims appear to
5 be the cause for the plans extended term.
6

7 4. **BEST EFFORTS/INCOME** Debtors' Plan may not be the Debtors' best efforts
8 under 11 U.S.C. §1325(b). Debtors may have erroneously reported their income on Statement of
9 Current Monthly Income, Schedule I and the Statement of Financial Affairs. Debtors should be
10 above median and appear to have significant unreported income and expenses.
11

12 a. HOUSEHOLD SIZE: Debtors' Statement of Current Monthly Income (DN 1, Pg. 43)
13 Line 16b reports their household size as 7, allowing them a median income of \$109,259.00. On
14 Schedule J #2, debtors report their dependents (DN 1, Pg. 31) listing 4 children, the youngest is
15 newborn and identified as "new". According to Schedule J, their household is only 6 (including
16 the new baby). The median income for a household of 6 is \$100,859.00. If their household is 6
17 the debtors are above median income.
18

19 b. NOT ALL INCOME ON FORM 122C-1: Debtors' Statement of Current Monthly
20 Income, Form 122C-1(DN 1, Pgs. 41-46) reports Debtors' income at \$4,500.00 each on #2-gross
21 wages, salary, tips; their income averages \$9,000.00 per month and \$108,000.00 annually. The
22 household of 7 (line 16c) median income in California is \$109,259.
23

24 Debtors' bank statements dating November, 2016 to April, 2017 show Debtors' deposits
25 average \$68,833.95 per month.
26
27
28

1 c. REPORTED INCOME It appears the debtors may have reported their net business
2 income versus their annual gross receipts on both Schedule I and the Statement of Financial
3 Affairs.

4 On Schedule I (DN 1, Pgs. 29-30), Debtors' each report earning \$4,500.00 in income
5 from wages on line 4, with no deductions. Debtors' net monthly income on line 12 is \$9,000.00.
6 At their First Meeting of Creditors held on June 1, 2017, debtors admitted they listed only their
7 net income from operating their business.
8

9 Statement of Financial Affairs #4 (DN 1, Pgs. 34-35) reports earnings in 2017: \$18,000
10 each or \$36,000 combined, in 2016: \$54,000 each (\$108,000 combined) and in 2015: \$54,000
11 each (\$108,000 combined).
12

13 d. TAX RETURN According to bank records provided to the Trustee, the Debtors
14 deposited approximately \$285,064.52 between January, 2017 and April, 2017.

15 Debtors' 2015 1040 Federal Tax Return reveals Debtors' file Schedule C and operate
16 their business as a Sole Proprietor with gross receipts of \$1,061,546.00 in 2015. The Trustee has
17 not received Debtors' 2014 or 2016 Returns.
18

19 When examined at the First Meeting of Creditors held on June 1, 2017, debtors explained
20 that the income reported is their net income not the gross receipts.

21 5. **BEST EFFORTS/SCHEDULE J EXPENSES** The Debtors' Plan may not be the
22 Debtors' best efforts under 11 U.S.C. §1325(b). The Trustee has concerns with a couple of
23 debtors' expenses on Schedule J.
24

25 a. TAX SAVINGS: On line #16, debtors deduct \$1,000 per month for estimated taxes.
26 The Trustee assumes these are for personal income taxes and is not opposed to the deduction.
27 The Trustee suggests the Court order the Debtors set the tax savings aside in a new/separate bank
28

1 account for the sole use and purpose of tax savings and payments, and that Debtors provide a
2 copy of the bank statement to the Trustee on a quarterly basis.

3 b. MEDICAL INSURANCE: On line #15b, debtors deduct \$1,215.00 per month for
4 health insurance. The Trustee does not oppose the need for medical insurance, but requests
5 proof of the expense and how it is paid.
6

7 6. **BUSINESS ATTACHMENT/NOT ALL EXPENSES REPORTED**: The Debtors
8 cannot make the payments under the plan or comply with the plan, 11 U.S.C. § 1325(a)(6).
9 Debtors' testimony at the 341 suggests that debtors are not employees but are owner/operators of
10 their business Rocklin Coin Shop.

11 Debtors' have additional expenses not reported. Debtors fail to report their business
12 operation expenses on Schedule J and have not filed the attached the business attachment as
13 required by Schedule I #8a. Debtors bank deposits average around \$68,833.95 and income on
14 Schedule I totals \$9,000.00 (DN 1, Pg. 30, Ln #12). On Schedule J, debtors report monthly
15 expenses of \$6,270.00. There appears to be a discrepancy in the Debtors' Schedules and
16 Statements that needs clarification.
17
18

19 7. **LIQUIDATION** The Debtors' Plan may fail the Chapter 7 liquidation analysis
20 under 11 U.S.C. §1325(a)(4). Debtors' nonexempt assets total \$10,825.00 and the plan proposes
21 to pay 14% or \$5,915.14 to the unsecured creditors, and \$11,225.00 in priority claims. Debtors'
22 may have additional assets not disclosed.
23

24 a. BANK BALANCE: On Schedule B #17, debtors list checking account at Tri-Counties
25 Bank with \$7,000 in the account on the date of filing. The Trustee has been unable to verify the
26 balance reported and request that Debtors provide the Trustee with their May, 2017 bank
27
28

1 statement, including the balance on May 2, 2017. On Schedule C, Debtors' exempt \$7,000 and
2 have used all of their available wildcard exemption.

3 b. ROCKLIN COIN SHOP The Debtors' own Rocklin Coin Shop listed on Statement of
4 Financial Affairs #24, the location of the shop is not reported on Schedule I or on Statement of
5 Financial Affairs #24. The business does not appear to be listed as an asset on Schedule B #19
6 (DN 1, Pg. 13). It does not appear that debtors have disclosed their business fixtures, cases,
7 cash registers, safes, computers and security cameras and equipment and any other business
8 equipment and furnishings in the shop.
9

10 Through a Google internet search, the Trustee was able to find a business address of 4870
11 Granite Dr, Rocklin, CA and a business website of www.rocklincoinshop.net. Services on their
12 website include buying silver plated items, selling of firearms, firearm classes, buying, selling
13 and trading rare and specialty coins and appraisal of coins.
14

15 Based on the above, the Trustee is uncertain Debtors' have listed all of their assets in
16 their schedules.
17

18 c. INVENTORY: On Schedule B #41-Inventory, Debtors lists "coins and metal
19 inventory" \$15,000. Debtors' have not filed with the Court or provided the Trustee with an
20 itemized list of their inventory and the prospective values. The Trustee cannot adequately
21 determine if the plan is proposed in good faith without verification of assets.
22

23 d. GUNS: The Trustee is concerned not all weapons are reported. Debtors business
24 includes the sale of firearms and firearm training. On Schedule B #10, debtors list guns \$2,000.
25 The Trustee has no way of knowing how many guns debtors own personally and how many they
26 have in merchandise for sale. The Trustee has not yet received any inventory lists from the
27 debtors relating to their business assets.
28


1 e. COLLECTIBLES: The Trustee is concerned not all collectibles are reported. On
2 Schedule B #8, debtors list no assets. Debtors deal in collecting of rare and unusual coins and
3 other valuable collectibles, yet list no personal collections. Under "About Us" on the business
4 website www.rocklincoinshop.com co-debtor Ariana Vickers is described as collecting since an
5 early age, and specializes in numismatic coins and currency. Any collections should be listed on
6 Schedule B #8.
7

8 **7. FAILURE TO FILE MOTION TO VALUE** The Debtors cannot make the
9 payments under the plan or comply with the plan, 11 U.S.C. § 1325(a)(6). The Debtors propose
10 to value the secured claim of Travis Credit Union, but have not filed a motion to value collateral.
11 Debtor's plan does not have sufficient monies to pay the claim in full and therefore should also
12 be denied confirmation.
13

14 **8. IDENTITY/SOCIAL SECURITY VERIFICATION** Debtor Ariana Vickers failed
15 to provide proof of her Social Security Number to the Trustee to establish the Debtor's identity
16 pursuant to the request of the United States Trustee and Chapter 13 Trustee, 11 U.S.C.
17 §521(h)(2).
18

19 WHEREFORE the movant prays that the Court enter an order denying confirmation of
20 the Debtor(s) plan.
21

22 Dated: JUNE 8, 2017
23



24 Talvinder S. Bambhra, Attorney for Trustee
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